

PREPARED JULY 24, 2002

MISSION OF THE OFFICE OF ADMINISTRATIVE HEARINGS

To hold fair and independent hearings for the public and for government agencies and to issue sound and timely decisions.

STATUTORY AUTHORITY: Ch. 34.12 RCW

BACKGROUND

Overview

The Office of Administrative Hearings (OAH) provides due process for the public by conducting independent hearings for state agencies. It provides the public with a means to appeal an agency decision and to have that decision reviewed in a prompt manner by an independent Administrative Law Judge (ALJ) who issues written Findings of Fact, Conclusions of Law, and an Order based on the evidence provided at a hearing.

Among the services that OAH provides are:

- Impartial and independent ALJs with expertise in both administrative and substantive law
- Accessible and economical hearings by telephone or in person
- Respectful, professional, and fair treatment of the parties
- Hearings which are scheduled promptly and conducted efficiently
- A fully developed record of testimony and exhibits from a hearing
- Researched and reasoned written decisions which are timely and understandable

Hearings vary from one-hour telephone hearings with pro se (unrepresented) appellants on unemployment insurance to extensive in-person hearings with attorneys on both sides regarding special education, adult family homes, or financial institutions, which may last several weeks and be spread over several months.

Caseload intake from FY 02 included 58,940 cases:

Employment Security Department (ESD) (unemployment insurance hearings): 36,365 cases
Department of Social and Health Services (DSHS) (public assistance, child support, licensing, juveniles): 21,689 cases

Superintendent of Public Instruction (SPI) (e.g., special education, student transfer, teacher certification): 208 cases

Liquor Control Board (LCB) (liquor/tobacco licensing): 93 cases

Department of Licensing (DOL) (business and professional licensing): 56 cases

Department of Labor & Industries (e.g., contractors, electricians, wage issues): 328 cases

16 other state and local agencies: 201 cases

Vision for Agency in the Year 2009; Long-term Trends

We began the strategic planning process by considering what the Office of Administrative Hearings (OAH) should look like in the year 2009, six years from the start of the next biennium.

Our vision of OAH in 2009 is for the public to perceive that they have had a fair opportunity to present their case and be heard by a knowledgeable and impartial judge, even if the ultimate decision is against them. We want to be the best “central panel” hearings agency in the country, serving the public and a variety of other state agencies by independently providing fair, timely, and efficient administrative hearings that result in sound decisions, using appropriate technology while remaining accessible to persons who may lack technological skills and resources. (A central panel hearings agency is an independent entity which provides administrative hearings for a variety of other agencies, as opposed to providing hearings just within the agency in which it is located.)

Process for Conducting Hearings

The essence of due process is to provide notice and a meaningful opportunity to be heard. The format of the hearing is important because it is the hearing which provides the meaningful opportunity to be heard. We envision the continuation of a mixture of in-person and telephone hearings, with the addition of some video hearings by 2009.

In-person hearings. It is important to many people to have direct “in person” contact with the judge who decides their case. In-person hearings are particularly appropriate in cases with those pro se parties who have difficulty communicating, long or complex hearings, some hearings with interpreters, and hearings based on credibility. (By rule, public assistance appellants in DSHS cases also currently have the right to convert to an in-person hearing upon request.) In-person hearings will be held in OAH hearing rooms (safer than using individual ALJ offices) and “on the road” where convenience for participants and witnesses is a factor and it is easier for the judge to travel to the site rather than requiring everyone else to come to the judge.

Telephone hearings. Telephone hearings offer a practical and effective alternative to many in-person hearings. Telephone hearings are often more convenient for parties and require less travel for the parties and/or the judge. Telephone hearings allow coverage of multiple DSHS offices at the same time. They offer safety both for judges and for parties, since hostile parties can appear from different locations. They make telecommuting possible, including having ALJs conduct some hearings from their homes. In FY 2002, approximately 89% of unemployment hearings and 40% of DSHS hearings were conducted in whole or in part by telephone. By 2009, we expect these percentages to increase. We expect telephone hearings to become even more dominant as the typical format for short hearings. At the same time, OAH does not expect nor desire to conduct only telephone hearings or go to a “telecenter” model for hearings.

Video hearings. One of the disadvantages of telephone hearings is the inability of the judge (and other parties) to see the witnesses. By 2009, video conferencing will be more conveniently available and at lower cost, but will not displace the convenience of telephone hearings.

Location of OAH Offices

Currently, OAH has nine offices in six cities: Everett, Olympia, Seattle, Spokane, Vancouver, and Yakima. Given the anticipated need for a mixture of in-person hearings in OAH facilities, in-person hearings “on the road” in other sites, a majority of telephone hearings, and some video hearings, we anticipate maintaining offices strategically located throughout the state. By 2009, OAH expects to shift the location and scope of several current offices, to consolidate and colocate offices, and to relocate offices away from expensive sites in downtown Seattle. Some other state agencies are also considering similar moves away from downtown Seattle.

Colocation of Olympia offices. OAH currently has three separate offices next door to one another in Olympia. We hope to colocate in a single location by the year 2009.

Relocation of Seattle/Everett offices. Currently OAH pays relatively expensive rent for two field offices in downtown Seattle (more than \$25/sq. ft., compared with \$15/sq. ft. or less anywhere else in the state). Parking is very difficult and expensive, although public transportation is available. Telephone hearings can be conducted from less expensive locations. Current biennial cost for the Seattle ES office is about \$530,000 and for the Seattle SHS office about \$300,000. By 2009, OAH will reorganize and consolidate facilities in Seattle and Everett. The leases of the three OAH facilities in Seattle and Everett all expire within a four-month span in 2003-04 and we will evaluate moving to two offices, one north and one south of Seattle.

The OAH configuration of offices by the year 2009 will then be:

Olympia
North of Seattle
South of Seattle
Spokane
Vancouver
Yakima

Reducing the number of offices will also reduce information technology costs for servers and high speed lines. All six of these offices will have the capacity to conduct extensive telephone hearings, to conduct in-person hearings in hearing rooms at the office, and to send ALJs on outreach to other sites for in-person hearings. Depending on the technology at that time, all six may also have the capacity for some form of video hearings. We also assume that all six offices will be “dual” offices conducting hearings for both ESD and DSHS.

Caseload

OAH assumes that the overall mixture of caseload by the year 2009 will remain similar to now, although there will be variation from agency to agency both in the volume and the scope and complexity of cases.

Unemployment appeals. Unemployment insurance cases have traditionally represented at least half of the OAH workload, both in volume of cases and in time and expenditures. In recent years, volume has ranged from a low of 23,614 cases in FY 1998 to 36,365 in the just completed FY 2002. Funding has been entirely from the federal government through ESD based on the volume of production by OAH. The volume of unemployment cases in FY 2009 is likely to be lower than the record-setting volume of FY 2002 because of the cyclical nature of unemployment. Unemployment is still expected to be the highest volume caseload in 2009 and is still anticipated to be conducted primarily through telephone hearings with written ALJ decisions.

DSHS appeals. The DSHS hearings caseload (public assistance, child support, licensing, juveniles) has changed considerably over the past several years. The length and complexity of cases has increased, although total volume had been declining, at least until this year. Increased volume combined with cuts in budget and personnel have led to greater reliance on telephone hearings instead of in-person ones. OAH still has to provide coverage for a docket, even when cases settle at the last minute. Scheduling is already difficult because of the mix of long cases and short cases combined with the high frequency of last-minute settlements or withdrawals. This problem is likely to become even more difficult as the mix of cases becomes harder to manage. A major new variable is that DSHS is in the process of eliminating review by the Board of Appeals

for non-licensing cases and granting OAH final decision-making authority. This will increase OAH workload, both short and long-term, but the impact is still unknown.

Specialized ALJ panels. The mixture of cases from other agencies is likely to ebb and flow, as it has historically. However, the overall complexity and length of cases is likely to continue to increase. Because of increased complexity and the need for increased specialization by ALJs, OAH has moved to greater use of panels, in which a limited number of ALJs are assigned to a particular caseload. Panels allow greater specialization and are generally preferred by client agencies, but also make scheduling more difficult. Currently, OAH has nine ALJ panels for caseloads such as special education, insurance, or apprenticeships. Use of panels is expected to increase by 2009.

Staffing Patterns

Number of staff. OAH currently has 95 ALJs and 72 support staff. The ALJs include five full-time temporary ALJs and 16 pro tem ALJs, almost all of whom are working on the unprecedentedly high volume of unemployment hearings. By 2009, the number of employees is not expected to be dramatically different than the current number, barring unforeseen major additions or deletions to caseload.

Location of staff in Puget Sound area. Retention of support staff in the Seattle area is becoming increasingly difficult. At the same time, the availability of qualified ALJ candidates has been far higher in the Seattle and Olympia areas than anywhere else in the state. ALJs and support staff will face ever increasing transportation difficulties, even assuming the development of increased public transportation in the central Puget Sound corridor. This is one of the major factors influencing the decision to move offices away from downtown Seattle. Employees will be concentrated more because of the smaller number of office sites, although telecommuting will also have increased.

Diversity. The diversity of OAH staff has consistently reflected the diversity of the population of the state of Washington, with the exception of Vietnam and disabled veterans among the predominantly female support staff. By the year 2009, the minority population in the state will be much higher. OAH is committed to a continuous effort to maintain its leadership role in diversity, particularly within the legal profession.

ALJ salaries. ALJ salaries are likely to be a major issue by 2009 unless there is a significant legislative adjustment before then. The current top salary for an experienced line ALJ is \$66,372. Most ALJs have been in practice as an attorney or judge for at least 15 years. A line ALJ is an

exempt position classified as an ALJ 3 and linked by the State Committee on Agency Officials' Salaries to a classified Board of Industrial Insurance Appeals Industrial Appeals Judge 2 (IAJ). In 2001, the Department of Personnel state salary survey identified IAJ salaries as 32.5% below market. By 2009, major salary increases may be required to recruit and retain ALJs.

Increased Efficiencies

By 2009, ongoing pressures to reduce costs in state government will continue to be paramount, leading to fewer offices and increased use of telephone hearings to handle multiple dockets simultaneously and to reduce travel costs.

Technology. By 2009, the use of voice recognition software by ALJs is expected to have replaced the use of dictation. This will lessen the need for support staff for word processing, but the needs for support staff to set up increasingly complex case files and the needs for Information Technology specialists are likely to balance this. OAH will receive requests for hearings by electronic transmittal from agencies, exhibits will be entered into the record electronically through imaging, video hearings will become more practical, digital recordings will replace cassette tapes of hearings, and decisions will be prepared using voice recognition software and more templates and standard paragraphs.

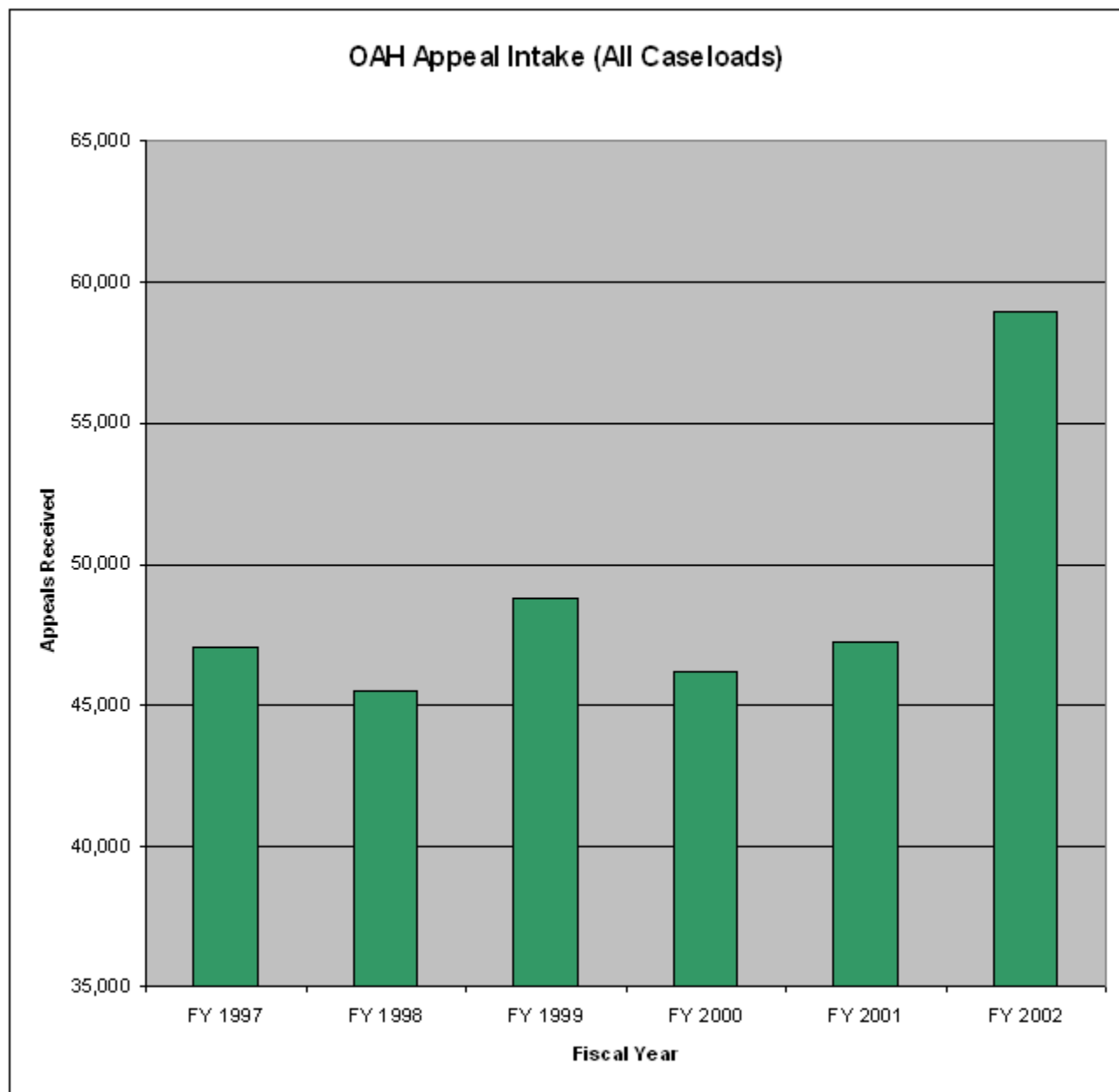
Rates. OAH currently bills the five agencies (ESD, DSHS, LCB, DOL, SPI) which have appropriations for the Administrative Hearings Revolving Fund on a reimbursement basis for designated costs. Other agencies are charged on an equivalent hourly basis for ALJ and support staff time. Since FY 1998, OAH has kept rates constant at \$80 per hour for ALJ time and \$45 per hour for support staff time because of greater efficiencies and because salaries for ALJs have not followed market increases for attorneys. OAH will not be able to continue to keep rates constant through 2009.

Caseload Trends; Changes in Current Biennium

The 2001-03 biennium has been characterized by enormous increases in caseload, particularly for unemployment insurance hearings. The total volume for all caseloads is shown below:

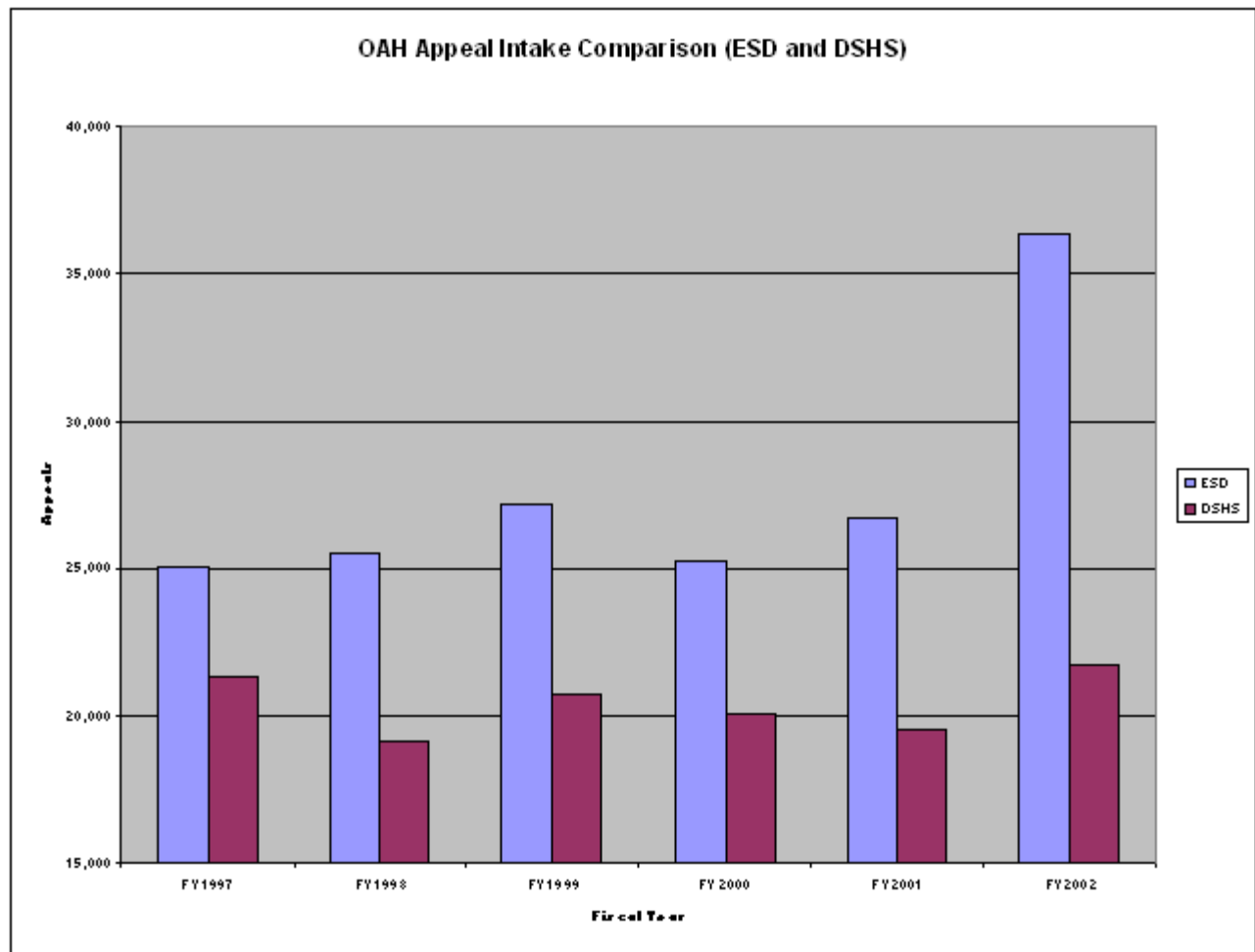
FY 97	47,067
FY 98	45,502
FY 99	48,803
FY 00	46,137
FY 01	47,141

FY 02 58,940



Unemployment caseload. Intake of unemployment cases went from 26,720 in FY 2001 to 36,365 in FY 2002. Growth in the unemployment caseload (as well as the DSHS caseload) is shown below:

FY 97	25,065
FY 98	25,530
FY 99	27,165
FY 00	25,237
FY 01	26,720
FY 02	36,365



The increase in unemployment appeals skyrocketed following September 11, 2001, and has been particularly great since January 2002. For the six months from January to June 2002, intake was 20,264, a 44.1% increase over the comparable period one year earlier. The increase has dramatically impacted all five field offices which hold unemployment hearings. Until FY 2002, the largest single month production for closing cases was 2668 unemployment benefits cases in March 1993 (this count is slightly lower than total unemployment cases, which also includes unemployment tax-related cases). That mark was exceeded in 10 of 12 months in FY 2002. Production has exceeded the 1993 single month record every month since October 2001. The new record for OAH is now 3541 total cases (set in May 2002). It seemed like every month OAH would set a new record for production and every month we would still fall farther behind.

Because of the increased unemployment caseload, timeliness of issuing decisions declined. Federal standards require OAH to process and complete 60% of unemployment benefit cases within 30 days from the date an appellant writes ESD to appeal ESD's determination. This includes ESD's processing and transmitting the appeal to OAH, receiving the appeal from ESD and setting up an appeal file, giving notice and scheduling the hearing, conducting the hearing and taking and reviewing evidence, and issuing a written order and decision which states findings of fact and conclusions of law. Federal standards also require 85% completion within 45 days and 95% within 90 days. OAH fell to 59.5% instead of 60% on the 30 day requirement and to 84.2% instead of 85% on the 45 day measure, although we barely met the 90 day requirement. Many other states also fell short; in fact, OAH actually exceeded national averages on 30 day and 45 day measures. Nevertheless, it is likely that OAH will be required to submit a corrective action plan to the federal government while we catch up with the backlog.

Unemployment hearings are a labor intensive process centered around the time required to listen to the testimony of parties and to issue a written decision. The only way OAH could respond to the 44.1% increase in caseload volume was to hire more ALJs, especially when two ALJs were recalled to military service. At first, OAH added and double-filled ALJ positions and made extensive use of retirees as pro tem ALJs. When it became clear that using retirees was not going to suffice, we also added non-retirees as pro tem ALJs. OAH requested and received a supplemental appropriation of \$786,000 in the 2002 supplemental budget, but did not receive additional FTE authority. By the end of FY 2002, OAH had also hired a series of full-time temporary ALJs, knowing that we needed ALJs to catch up with the caseload, but that we did not want to be overstaffed when the unemployment cycle reversed. At this time, OAH has 74 permanent ALJs (including seven part-time, some of whom are part-time as a reasonable accommodation), five full-time temporary ALJs, 12 retired ALJ pro tems, and four non-retiree pro tems, a total of 95 ALJs. Of the 95, 71 are assigned at least partially to unemployment cases.

DSHS caseload. The only portion of OAH's regular budget which derives from the state general fund comes from DSHS and, therefore, DSHS hearings must bear the brunt of OAH budget cuts. The long-term trend in DSHS caseload had been downward prior to this biennium, although the decline in volume had been offset by increase in complexity and length of cases. For FY 2002, all measures of DSHS cases are up. Total intake, which had declined from 20,027 in FY 2000 to 19,569 in FY 2001, increased 10.8% to 21,689 in FY 2002. Total DSHS caseload was the highest in the last six years. See graph above.

Other caseloads. While the volume of other cases has not changed dramatically this biennium, there has been an increase in lengthy and complex cases, particularly in special education, financial institutions, and the Energy Facility Site Evaluation Council (EFSEC). The number of ALJ hours spent on a single controversial EFSEC power plant decision exceeded the total number of hours spent on all 328 L&I cases.

Staffing. Despite staffing pressures because of budget and caseload, OAH has continued to demonstrate leadership in hiring diverse ALJs. Among the 79 permanent and full-time temporary ALJs, OAH currently has 41 (51.9%) women, 8 (10.1%) African Americans, 4 (5.1%) Asian/Pacific Americans, 5 (6.3%) Hispanics, and 0 (0%) Native Americans.

Budget reductions. OAH has made significant budget reductions, despite caseload pressures. In contrast to the supplemental budget increase for unemployment appeals, Administration and DSHS appeals have had to bear the brunt of budget cuts of \$330,000 in the 2002 supplemental budget. This has caused major difficulty in maintaining equanimity among different OAH programs and field offices. We have used attrition among ALJs and support staff in SHS field offices (as well as Headquarters) to reduce staffing, although this causes obvious strains while increasing staffing in the ES field offices. Headquarters staff of 18 will be reduced to no more than 16 by the end of the biennium. All agency-paid out-of-state travel has been eliminated, including all training with the National Judicial College and all agency-paid national conferences. In-state travel has been slashed, requiring greater use of telephone hearings. Quarterly state management team meetings have been replaced by conference calls. Plans for an all-staff statewide meeting were cancelled. We have eliminated commercial training programs for information technology and continuing legal education.

GOALS

1. **Quality. To conduct high quality hearings and issue sound decisions.**

2. **Timeliness.** To provide timely hearings and decisions.

3. **Efficiency.** To use state resources efficiently in conducting hearings and issuing decisions.

OBJECTIVES FOR THE 2003-2005 BIENNIUM

Quality

- 1.1 Continue to meet or exceed quality standards for 90% of hearings and decisions based on random quarterly samples.
[recommended performance measure for OFM]
- 1.2 Continue to obtain 80% positive satisfaction ratings from periodic customer satisfaction surveys.
- 1.3 Continue to obtain ratings of 4 or higher in standardized Department of Personnel surveys of employee satisfaction conducted every three years.

Timeliness

- 2.1 Complete 80% of all cases within 90 days of filing the appeal.
[recommended performance measure for OFM]
- 2.2 Complete 60% of unemployment insurance benefit cases within 30 days of filing the appeal, pursuant to U.S. Department of Labor timeliness standards.
- 2.3 Complete 85% of unemployment insurance benefit cases within 45 days of filing the appeal, pursuant to U.S. Department of Labor timeliness standards.
- 2.4 Complete 95% of unemployment insurance benefit cases within 90 days of filing the appeal, pursuant to U.S. Department of Labor timeliness standards.

Efficiency

- 3.1 Reduce percentage of budget attributable to costs for office space.

- 3.2 Develop system to distribute caseload and resources equitably to different field offices based on consistent measurements of productivity.

PERFORMANCE MEASURES**Goal 1: Quality****Outcome Measures for Each Objective:**

- 1.1 Percentage of randomly selected cases meeting or exceeding U.S. Department of Labor quality standards for unemployment insurance benefits hearings and decisions.
- 1.2 Percentage of randomly selected cases meeting or exceeding comparable quality standards for other caseloads (excluding unemployment insurance benefits cases).
- 1.3 Percentage of customers giving positive satisfaction ratings in response to hearings survey.
- 1.4 Ratings of OAH employees in Department of Personnel employee satisfaction surveys.

Output Measures:

Number of cases filed for each major caseload.

Number of hearings held in-person, by telephone, and by video.

Goal 2: Timeliness**Outcome Measures for Each Objective:**

- 2.1 Percentage of all cases completed within 90 days of the date the appeal was filed.
- 2.2 Percentage of unemployment insurance benefits cases completed within 30 days of the date the appeal was filed.
- 2.3 Percentage of unemployment insurance benefits cases completed within 45 days of the date the appeal was filed.
- 2.4 Percentage of unemployment insurance benefit cases completed within 90 days of the date the appeal was filed.

Output Measures:

Number of cases completed within 90 days of filing.

Goal 3: Efficiency

Outcome Measures for Each Objective:

3.1 Percentage of agency budget each biennium spent on leases for office space.

3.2 Evaluation of system for distributing caseloads and resources equitably between field offices.

Output Measures:

Dollar amount per biennium spent on leases for office space.

Square feet of leased office space.

Cost per square foot for leased space.

Number of cases by category per field office.

FTEs for ALJs and support staff per field office.

APPRAISAL OF EXTERNAL ENVIRONMENT

Washington State has one of the most severe budget problems in the nation at the same time that caseload is increasing.

At the time this strategic plan is being prepared, Washington State has the second highest unemployment rate in the country. The number of unemployment hearings requested is totally beyond the control of OAH and correlates with the unemployment rate, the volume of initial claims for unemployment benefits, and similar factors. Unemployment hearings also tend to be a trailing economic indicator, so they are expected to continue at a high volume even when the state economy begins to recover.

According to ESD calculations, the OAH unemployment benefits caseload is projected to be 42,142 unemployment appeals in FY 2004 and 41,940 in FY 2005. (Unemployment benefits cases include all but various unemployment tax-related hearings which are also included in OAH's count of total unemployment hearings.) These projections compare with actual total OAH intake of unemployment benefits cases of 36,365 in FY 2002. ESD estimates that appeals "will continue

to rise slowly into CY03 and perhaps early CY04 [and] will begin to decrease in CY04 and continue a slow decrease in CY05.”

OAH projections for caseload are similar to ESD’s numbers. We assume an intake of 42,390 total unemployment cases in FY 2003, compared with 36,365 in FY 2002 and 26,720 in FY 2001. We project total intake of 42,386 unemployment cases in FY 2004 and 40,267 unemployment cases in FY 2005. At peak levels in FY 2004, this represents an increase of 58.1% over FY 2001, the last state fiscal year prior to September 11, 2001.

Other external variables affecting unemployment hearings include changes in economic conditions and federal law affecting Training Benefit cases, state “Extended Benefits” cases, and Temporary Extended Unemployment Compensation (TEUC) cases. As this strategic plan is being written, it is also uncertain what impacts will arise from Referendum 53, which would alter the tax structure which finances unemployment insurance and which has been certified for the November 2002 ballot. No direct impact on unemployment hearings is expected from the tax changes, but it may affect political attitudes towards unemployment insurance.

It is unknown what impact the economy and high unemployment rates will have on the DSHS caseload. We assume that the volume of appeals to OAH on public assistance cases will increase as the DSHS caseload increases. For example, the Caseload Forecast Council projections for TANF in FY 2004 and FY 2005 are slightly higher than the current level. However, it is unknown what other major components of DSHS appeals, such as child support and licensing, will do.

Other major variables in the external environment have had significant impacts on OAH staffing and caseloads, but are difficult to predict. For example, electrical energy supplies and costs have had a huge impact on the Energy Facilities Site Evaluation Council, which in turn has contracted with OAH to provide the presiding ALJ during its hearings and deliberations. A single EFSEC case (Sumas Energy 2 Generation Facility) consumed more than 2000 hours of ALJ time over two years. Other EFSEC cases were then anticipated and OAH prepared for them, but some were completely withdrawn as the energy market changed.

TRENDS IN CUSTOMER CHARACTERISTICS

The dominant trend in unemployment hearings has been increased volume of appeals as the unemployment rate has climbed. Since January 2002, the consistent 35-50% volume increase, compared to unemployment appeals one year ago, has been the major driver in OAH operations. It has led to extensive use of pro tem ALJs, recruitment and hiring of full-time temporary ALJs, the

shift of ALJs from other caseloads to unemployment, assignment of cases from other agencies almost exclusively to ALJs normally assigned to the DSHS caseload instead of those assigned to unemployment appeals, significantly increased problems with timeliness, and even the relocation of ALJs from one office to another in order to provide more space for more ALJs in OAH offices covering unemployment.

The trend in DSHS cases has also been an increased appeals caseload, although not as great as with unemployment. One of the major problems is the relationship between the two largest parts of OAH caseload, unemployment and DSHS. The volume of unemployment caseload has led to significant expansion of staff, approval of a supplemental budget request in 2002, the likelihood of an additional supplemental budget request in 2003, and the availability of federal funds dedicated to pay for OAH's increased production. At the same time, OAH as a state agency has to take budget cuts across the entire agency. The result has been a disproportionate impact on the SHS side of OAH. The result has been fewer people, both ALJs and support staff, available to hold hearings on DSHS cases. At the same time, DSHS caseload intake has increased, while the percentage of cases which actually go to hearing (as opposed to settling or being dismissed) appears to be increasing. Because of the unemployment caseload, we have also diverted more "other agency" cases from OAH ES offices to OAH SHS offices, causing additional pressure on the SHS offices.

Another significant trend in the SHS caseload continues to be more complexity of cases and longer hearings. Although the intake of DSHS licensing cases diminished for the first time in years, the cases still appear to be taking longer. These include child abuse cases under the federal Child Abuse Prevention and Treatment Act (CAPTA). More parties have legal counsel and there are more witnesses and legal documents. Another major variable with DSHS cases is the change from OAH issuing initial decisions to final decisions, discussed below in the Major Partners section.

Caseloads from other agencies also have typically been steady or declined, but the complexity of the case and length of hearing has generally increased. For example, total intake of cases in FY 2002 for EFSEC was only three cases, but ALJs spent 1249 hours; for the Department of Financial Institutions intake was nine cases, but ALJs spent 338 hours; and for the Insurance Commissioner intake was three cases, but ALJs spent 150 hours. The volume of SPI cases had leveled off in FY 2001, but increased by 21.6% in FY 2002. Liquor Control Board and Department of Licensing cases have diminished in number.

DISCUSSION OF MAJOR PARTNERS

The major partners of OAH are expected to continue to be Employment Security and DSHS. With both of these client agencies, the division of functions between the agency and OAH has been relatively simple, but is becoming more complex. In typical cases, an individual is dissatisfied with a decision by the client agency and files an appeal, either through the client agency or directly to OAH. OAH then is responsible for scheduling and conducting the hearing and issuing a decision.

Initial and final decisions. With unemployment cases, OAH issues an initial decision. Aggrieved parties may then appeal the initial decision back to the Commissioner's Review office for further review. In contrast, DSHS made the decision in June 2002 to significantly reduce its internal Board of Appeals, which handled appeals of OAH initial decisions in the DSHS caseload. Instead, DSHS is in the process of delegating authority for final decisions to OAH for caseloads other than DSHS licensing. These include the high volume areas of public assistance and child support. As a consequence, the initial step for a party to take after receiving an adverse decision will be to petition for reconsideration by the ALJ who issued the final decision. If reconsideration is denied, then the party will have to go to Superior Court to appeal the order. The reconsideration process is a new step for OAH and it is uncertain what the impact will be.

ESD issues. Other issues which relate to ESD, other than the volume of caseload discussed above, include long-term changes in the allocation method for federal funds, potential legislative changes to discourage unfair surprise in the introduction of new evidence after ESD has adjudicated the initial claim, resumption of efforts for a GUIDE interface to transfer information electronically between ESD and OAH, potential imaging of exhibits and documents to transfer and store them electronically, and ongoing issues relating to ESD's conversion to telecenters.

DSHS issues. Other DSHS issues include how to process closed files after cuts to the DSHS Board of Appeals, how to pay rising costs for court reporters used by the Board of Appeals in licensing cases and currently charged back to OAH, and how to provide training and manage risk once DSHS adopts rules for child abuse (CAPTA) hearings.

STRATEGIES

Quality

1.1 Continue to apply USDOL quality standards to randomly selected unemployment cases and to apply comparable quality standards to other caseloads on a quarterly basis. Senior ALJs

review the tapes of hearings and resulting written decisions and assign points based on federal requirements.

1.2 Provide inter-agency in-state training by the Network of Adjudicatory Agencies and other alternative forms of training for ALJs as substitutes for travel to national conferences or the National Judicial College.

1.3 Improve quality by maintaining panels of ALJ specialists for recurrent special caseloads, and providing training to panels on law and regulations specific to the caseload.

1.4 Continue to use feedback from customer satisfaction surveys and employee satisfaction surveys to identify areas most in need of improvement. Conduct customer surveys annually and employee surveys at least every three years. Tailor survey instruments to raise selected new issues while also maintaining comparability for comparisons between years. Provide feedback to ALJs and to field offices on results.

1.5 Increase research capability for ALJs by providing more training on use of Lexis/Nexis electronic legal research.

1.6 Improve safety of hearings by upgrading hearing rooms and facilities to eliminate public access to support staff and ALJ work spaces and by increased use of telephone and video hearings where appropriate.

1.7 Improve access to justice for pro se parties by expanding First In Touch (FIT) program, including providing information about hearings to parties through websites, brochures, and staff trained in providing customer service.

1.8 Maintain a labor force, including ALJs, that is representative of the diversity of the public appearing in hearings and of the residents of the state. Undertake study of ALJ salary comparisons.

1.9 Expand performance evaluation of exempt employees beyond Executive Management Team and Senior ALJs to apply to individual ALJs who do not presently receive annual performance evaluations.

1.10 Develop pilot project for video hearings as alternative to telephone hearings and evaluate satisfaction of parties and agencies with system.

1.11 Develop checks on quality of decisions by more consistent proofreading, use of more standardized formats, availability of legal research tools to verify current law, and easier access to sample decisions on different topics.

Timeliness

2.1 Continuously monitor and adjust workload between field offices and major caseloads, including arrangements for distribution of cases from ESD telecenters, to reflect changing workload patterns.

2.2 Continue cross-training ALJs to allow transfer of assignments between caseloads to respond to fluctuations in volume in different caseloads.

2.3 Develop and implement corrective action plan to meet federal unemployment insurance timeliness standards.

2.4 Adjust staffing levels by using full-time temporary and pro tem ALJs to accommodate workload.

2.5 Establish business rules for CATS caseload tracking system and provide for greater use in field offices to monitor progress and timeliness of cases other than from Employment Security and DSHS.

Efficiency

3.1 Utilize ACTS 2 centralized database system for unemployment cases to facilitate transfer of cases between offices depending on workload. Develop pilot project to store exhibits through imaging system. Resume discussions with Employment Security about when to implement GUIDE interface computer program.

3.2 Implement voice recognition software to replace dictation and word processing, reducing delays in coordinating dictation by ALJs with word processing operators, and substituting increased proofreading and review of decisions for accuracy of content.

3.3 Evaluate using digital systems to record hearings.

3.4 Explore the feasibility of relocating and reconfiguring field offices in Seattle and Everett. Leases for field offices in Seattle currently cost \$25.15 to \$25.50 per square foot (compared with

\$15.40 for the next highest cost for any OAH office outside Seattle) and would total about \$838,000 for the biennium. Leases for the Seattle ES office (One Union Square), Seattle SHS office (Securities Building), and Everett SHS office all expire between September 2003 and January 2004. Most hearings done from these offices are by telephone, although the mixture of phone and in-person hearings varies drastically between offices. OAH will analyze the feasibility of consolidating these three offices into two dual offices, serving both ES and SHS caseloads. One office might be located north of Seattle, perhaps in Shoreline or Lynnwood, and one might be south of Seattle, perhaps between Renton and Fife. We assume these offices would continue to do both in-person and telephone hearings. Accessibility, including public transportation and parking, for both participants at hearings and for OAH employees, will be a critical factor in these locations. If relocated in this manner, the field offices would provide regional access for in-person hearings while still providing centralized functions for telephone and video hearings. Parking is likely to be much easier, but public transportation is likely to be more difficult. OAH will utilize the Department of General Administration to help analyze long-term and transactional impacts. Relocating these offices involves the potential for substantial short-term disruption as the offices are recombined and totally reorganized, integrating ESD and DSHS caseloads in two new locations. Staff are likely to have many concerns because of the disruptions involved.

3.5 The lease for the Vancouver field office expires in December 2003. The size of the office is currently 6,000 square feet, much larger than can be justified, but difficult to use because of the way the space is laid out. Most of the other state offices located nearby have relocated to other facilities. Moving to another location will allow improved security from hearing rooms instead of bringing parties into individual ALJ offices and will provide greater efficiencies in a smaller space.

3.6 The lease for the Yakima field office expires in June 2004. The size is efficient at 3,029 square feet and hearing rooms provide good security. We plan to renew the lease.

FINANCIAL PLAN ASSESSMENT

OAH is a revolving fund agency which currently receives ongoing revenue from five state agencies (Employment Security, DSHS, SPI, Liquor Control Board, Department of Licensing) and is paid on an hourly basis by other agencies. Less than 20% of the OAH budget derives from the General Fund-State (primarily the state-funded portion of the DSHS caseload).

RISKS, OBSTACLES, AND OPPORTUNITIES

One of the biggest risks and biggest opportunities in this strategic plan is the potential for relocation and recombination of the Seattle/Everett field offices, discussed above in Strategy 3.4.

Obstacles include finding suitable alternative locations that provide secure facilities, public transportation and access, and reasonable cost. This also requires analysis of the relative efficiencies of smaller, team-like work units in contrast to larger offices. OAH will require assistance from the Department of General Administration to conduct the analysis and implement any relocation.

The change in the DSHS caseload from issuing initial decisions to issuing final decisions is also a substantial risk. This has not yet been implemented as of the date this strategic plan is drafted, but could have significant impacts on workload based on reconsideration of cases, issues of balancing judicial independence with consistency and uniformity, potential affidaviting (removal) of ALJs by parties, changes in the process for closing files, or other factors.

The risk management costs for self-insurance premiums are more than doubling for the 2003-05 biennium. The only claim against OAH in the last five years was an employment discrimination suit, settled in 1997, by an employee who left OAH in 1994. Since that time, OAH has instituted extensive training of managers and supervisors, including requiring HELP Academy training for all new supervisors. Potential liability to employees is likely to center around repetitive stress injuries relating to work at computer stations. Voice recognition software for ALJs to replace dictation may also reduce long-term risk to support staff for these injuries.

INTERNAL RESOURCE ASSESSMENT

Workforce

OAH has had very good success in recruiting and retaining a diverse group of skilled ALJs in all its offices. Over the next several years, there are likely to be increasing issues of recruitment and retention unless ALJ salaries are increased beyond the current maximum level of \$66,372, very low for experienced attorneys. Retirements will also be more of a factor, particularly as the remaining PERS I employees reach 30 years of state service.

OAH has been less successful in recruiting and retaining support staff, particularly in the Seattle market. Moving away from downtown Seattle offices may help, but this could be offset if access from public transportation to the field offices becomes more difficult.

Because of budget constraints this biennium and expected in 2003-05, OAH has temporarily discontinued any statewide meetings for ALJs, support staff or for the entire agency staff. The long-range plan had been to hold an agencywide meeting every other year and separate ALJ and support staff meetings in the alternate year. One day quarterly statewide management team

meetings have also been reduced to half-day conference calls. The lack of a means for gathering all staff together statewide will tend to increase differences between offices instead of fostering greater consistency.

Training has also been reduced on a temporary basis because of budget constraints. This particularly affects new supervisors, Information Systems Unit staff and ALJs.

Facilities and Technology

OAH is relatively decentralized and emphasizes field operations. The function of the administrative headquarters staff is to support the field offices which conduct the actual hearings and issue decisions, the core reasons for OAH's existence.

OAH depends heavily on technology. We are moving separate databases for unemployment and DSHS hearings to a new Oracle-based system using a centralized database instead of one distributed to servers around the state. Reducing the number of office locations from nine currently to eight during the 2003-05 biennium and to six by the year 2009 will reduce some of the costs of maintaining the wide-area network. However, reducing the number of offices will also increase the need for bandwidth and reliable communication between offices. Video hearings will also require increased technological capacity.